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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,444	02/15/2002	Richard Brown	30006610-2	8754

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EXAMINER	
AVELLINO, JOSEPH E	
ART UNIT	**PAPER NUMBER**
2143	

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/075,444	BROWN ET AL.	
	Examiner	Art Unit	
	Joseph E. Avellino	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 June 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-27* is/are pending in the application.

4a) Of the above claim(s) *13-27* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-27 are presented for examination; claims 1, 8, 13, and 21 independent. In response to the Restriction, dated March 10, 2005, Applicant has elected with traverse Group I, claims 1-12; claims 1 and 8 independent. Claims 13-27 are hereby withdrawn from examination as being drawn to a nonelected invention.

Priority

2. Applicant's claim to priority under 35 USC 119 has been acknowledged.

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-5, 7-10, and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Tarbotton et al. (USPN 6,757,830) (hereinafter Tarbotton).

4. Referring to claim 1, Tarbotton discloses an email handling method, comprising the step of storing an email in a compartment (i.e. dirty mail store 16) of a compartmented operating system (i.e. AV sys) (Figure 2; col. 5, lines 60-65).

5. Referring to claim 2, Tarbotton discloses storing an email in a compartment with other emails (it is inherent that this feature is included in Tarbotton since all emails are included in the dirty mail store).

6. Referring to claim 3, Tarbotton discloses storing the email in an individual compartment (i.e. an individual compartment of the antivirus system known as the dirty mail store 16, it is not stored in any other compartments such as AV sys rules 22, scan engine 18, or virus definition data 20) (Figure 2; ref. 16).

7. Referring to claim 4, Tarbotton discloses assessing the email according to a security policy (i.e. holding the email for a set amount of time based on the characteristics of the email) (Figure 3; ref. 32, 34, 38).

8. Referring to claim 5, Tarbotton discloses determining a security status for the email (i.e. determine mail latency delay) (Figure 3, ref. 32; col. 7, lines 13-45).

9. Claims 7-10, and 12 are rejected for similar reasons as stated above.

Claim Rejections - 35 USC § 103

10. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 6 and 11 rejected under 35 U.S.C. 103(a) as being unpatentable over Tarbotton.

11. Referring to claim 6, Tarbotton discloses the invention substantively as described in claims 1 and 8. Tarbotton does not specifically state applying a security tag to the email denoting the security status, however does disclose that anti-virus or anti-spam actions are taken, which can comprise disinfecting, blocking, deleting, etc. (col. 6, lines 44-55). In order to determine if an email has already been scanned and the results of said scan, one of ordinary skill would understand it would be obvious to modify the teaching of Tarbotton to include a security tag. By this rationale, "Official Notice" is taken that both the concept and advantages of providing for a security tag to an email denoting the security status is well known and advantageous in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Tarbotton to include a security tag denoting the security status in order to easily determine if the email poses a security threat and what to do if it contains matter hazardous to the network, thereby reducing overall complexity of the system and allowing for future upgrades and replacements to be easily accomplished.

12. Claim 11 is rejected for similar reasons as stated above.

Response to Amendment

13. The Office has considered the amendment to claims 8-12. The rejections under 35 USC 112, second paragraph and 35 USC 101 have been withdrawn.

Response to Arguments

14. Applicant's arguments filed March 30, 2005 have been fully considered but they are not persuasive.

15. Applicant argues, in substance, that (1) Tarbotton does not disclose a compartmented operating system that uses a containment mechanism enforced by a kernel of the operating system with mandatory access controls to resources of the computing platform.

16. As to point (1) In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a containment mechanism enforced by a kernel of the operating system with mandatory access controls to resources of the computing platform) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore it can be interpreted that the dirty mail store can be interpreted as a compartment of an operating system as defined by Applicant. Applicant states the compartment is a containment

mechanism (which the dirty mail store is) enforced by a kernel (i.e. an algorithm which determines if the mail should be stored in the dirty mail store), with mandatory access controls to resources of the computing platform (i.e. the mail is scanned by the virus scanning software). Therefore, the dirty mail store of Tarbotton clearly fits the definition of Applicant's compartmented operating system. By the above rationales, the rejection is maintained.

Conclusion

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

18. It is still the Examiner's position that Applicant has not yet submitted claims drawn to limitations, which define the operation and apparatus of Applicant's disclosed invention in manner, which distinguishes over the prior art. As it is Applicant's right to

continue to claim as broadly as possible their invention. It is also the Examiner's right to continue to interpret the claim language as broadly as possible. It is the Examiner's position that the detailed functionality (i.e. defining what Applicant means by a compartmented operating system as well as how the data is stored and what happens when it is stored) that allows for Applicant's invention to overcome the prior art used in the rejection, fails to differentiate in detail how these features are unique

19. Applicant employs broad language, which includes the use of word,. and phrases, which have broad meanings in the art. As the claims breadth allows multiple interpretations and meanings, which are broader than Applicant's disclosure, the Examiner is forced to interpret the claim limitations as broadly and as reasonably possible, in determining patentability of the disclosed invention. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir.1993). Failure for Applicant to significantly narrow definition/scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims with scope parallel to the Applicant in the response, and reiterates the need for the Applicant to more clearly and distinctly, define the claimed invention.

20. Applicant has failed to seasonably challenge the Examiner's assertions of well known subject matter in the previous Office action(s) pursuant to the requirements set

forth under MPEP §2144.03. A "seasonable challenge" is an explicit demand for evidence set forth by Applicant in the next response. Accordingly, the claim limitations the Examiner considered as "well known" in the first Office action are now established as admitted prior art of record for the course of the prosecution. See In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JEA
June 24, 2005

WILLIAM C. VAUGHN, JR.
PRIMARY EXAMINER